

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES HART,

Defendant.

8:17CR186

ORDER

Defendant seeks an order compelling the government to respond to Defendant's Discovery Request Nos. 2, 3, 4, 7 and 25. ([Filing No. 30.](#)) Defendant's motion is granted as follows:

1. Discovery Request No. 2 seeks information regarding the informant's criminal history. The government shall produce the informant's local criminal history as discussed at the hearing on this matter.

2. Discovery Request No. 3 seeks information pertaining to the events precipitating the informant's cooperation. The government shall produce all items in Defendant's motion regarding this issue. As to the gun range video, the government has indicated that the video was not able to be downloaded at the time law enforcement viewed it. Therefore, the government does not have the video and, to its knowledge, a copy of it does not exist. If it is later discovered that this video exists, the government shall immediately turn it over to Defendant's counsel. As to any reports concerning a forensic examination of the informant's iPhone, the government has indicated that no forensic examination occurred, but it does have raw data from the phone. The government shall provide this information to defense counsel.

3. Discovery Request No. 4 requests the informant's agreement. The government shall produce a copy of the signed informant agreement for the informant involved in this case.

4. Discovery Request No 7 seeks information pertaining to monetary payments made to the informant. The government shall produce any records that exist regarding monetary payments to the informant in this case. If additional issues arise after the documents are received, either party may request that such issues be set for hearing.

5. Discovery Request No 25 seeks preceding CI/Target contacts and communications. The government shall inform defense counsel of how the communication between the informant and Defendant occurred, *i.e.*, text message, telephone, messenger, etc. The government shall also identify the officer who provided the government this information. If this information is unavailable, the government shall so notify defense counsel. The government shall also identify the officer who informed the government that this information does not exist.

In addition, the government shall provide the actual text messages, messenger messages, etc, if they exist, to defense counsel. The government shall also identify the officer who provided the government this information. If the messages do not exist, the government shall so notify defense counsel and also identify the officer who informed the government that the information sought does not exist.

Accordingly,

IT IS ORDERED that Defendant's Motion to Compel Discovery ([Filing No. 30](#)) is granted as set forth above. The government shall provide the requested information to defense counsel no later than October 13, 2017.

Dated this 4th day of October, 2017.

BY THE COURT:

s/ Susan M. Bazis
United States Magistrate Judge